

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

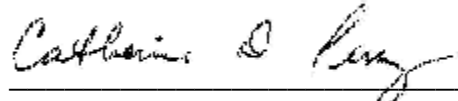
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 1:04CR141 CDP
)	
ADRAIN A. BAKER,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

Defendant Adrain Baker has filed a “Motion for Modification and Correction of Sentence.” In the motion Baker argues that she should be resentenced now that United States v. Booker, 125 S.Ct. 738 (2005), has declared the United States Sentencing Guidelines to be advisory rather than mandatory. In Never Misses a Shot v. United States, 413 F.3d 781 (8th Cir. 2005), the Eighth Circuit Court of Appeals held that Booker does not apply to criminal convictions that became final before Booker was decided. Baker’s conviction became final in November of 2004, and Booker was not decided until January of 2005. Under the law of this circuit, Baker cannot benefit from Booker.

Accordingly,

IT IS HEREBY ORDERED that Baker's pro se motion for modification of sentence [#15] is denied.

A handwritten signature in cursive script, appearing to read "Catherine D. Perry", is written over a horizontal line.

CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 19th day of December, 2005.